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Approved For Release 2007/05/07 : CIA-RDP80B01676R000700170024-3

April 6 1959

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Honorable Allen W. Dulles
Director
Central Intelligence Agency
Washington 25, D. C.

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Dear Allen:

As we have previously advised your office, the Supreme Court, on March 23, ordered that the case of Rudolf Ivanovich Abel v. United States be set down for reargument on October 12, 1959. A copy of the Court's order is enclosed.

Following the Court's order, which sets the case over to the fall and makes a decision unlikely until the end of the year, we considered requesting the Solicitor General to authorize the filing by the Government of a motion to expedite disposition of the case. However, the normal minimum time for briefing allowed to each side is thirty days for each which would, in any event, have carried the case over into early June when the Court normally does not hear oral arguments. To secure an exception we would be called upon to make a very strong showing of necessity. Even then, in view of the critical and perhaps far-reaching effect that the decision might have on Immigration procedures, a decision would be unlikely before the fall of the year.

In view of these considerations I think we have no alternative but to follow the normal procedure which will entail the filing of briefs this summer, although I appreciate the very serious problems which such a lengthy delay creates for your Agency. As you know, [redacted] would be an absolutely essential witness to any possible retrial of Abel on espionage charges, in the event of a reversal of his conviction by the Supreme Court. It was, of course, with this in mind and on this understanding that your Agency has undertaken, since before the trial commenced, to insure, insofar as reasonably practicable, [redacted] continued

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[DOJ Review Completed]

(EXCERPT FROM THE) Attorney [redacted]

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- 2 -

availability to testify in connection with these proceedings. This Department is indeed appreciative of the successful though very difficult efforts to this end carried on by your personnel. In view of the obvious importance to the country of preventing Abel's return to the Soviet Union within the near future, it is most important that we remain in a position of being able to retry him on the espionage charges, if such is required by the eventual decision of the Supreme Court. Because of this, we would be greatly appreciative if you will continue to do whatever reasonably can be done with a view to maintaining continued availability to testify.

[redacted] Kindest personal regards,

WILLIAM F. TOMPKINS
Special Assistant
to the Attorney General

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Monday, March 23, 1959

No. 263 ABEL VS. UNITED STATES

It is ordered that this case be set for re-argument on October 12, 1959, at the head of the calendar for that date. Upon reargument counsel are requested to discuss in their further briefs and oral arguments, in addition to other issues, the following questions:

1. Whether under the laws and Constitution of the United States (a) the administrative warrant of the New York Acting District Director of the Immigration and Naturalization Service was validly issued, (b) such administrative warrant constituted a valid basis for arresting petitioner or taking him into custody, and (c) such warrant furnished a valid basis for the searches and seizures affecting his person, luggage and the room occupied by him at the Hotel Latham.

2. Whether, independently of such administrative warrant, petitioner's arrest, and the searches and seizures affecting his person, luggage, and the room occupied by him at the Hotel Latham, were valid under the laws and Constitution of the United States.

3. Whether on the record before us the issues involved in Questions "1(a)," "1(b)," and "2" are properly before the Court.

Upon reargument each side will be allowed one and one-half hours for oral argument.

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Remarks:			
For your information. A copy of the attached has been sent to [redacted] for necessary action. The original will be shown to both General Cabell and the Director.			
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